

House Judiciary Committee Amendment No. 1

Amendment No. 1 to SB2257

Cooper  
Signature of Sponsor

**AMEND Senate Bill No. 2257\***

**House Bill No. 2377**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

in Section 1:

- 1) by deleting the third sentence of Section 47-9-102(a)(11) and by substituting instead, "The term does not include (i ) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card."
- 2) by inserting in Section 47-9-102(a)(60) between the words "original debtor" and "means a person" the words, ",except as used in Section 47-9-310(c),".
- 3) by inserting in Section 47-9-102(a)(64) the words ",except as used in Section 47-9-609(b), between the words "proceeds" and "means the following".
- 4) by deleting subsection (d) of Section 47-9-311 in its entirety and by substituting instead the following:

(d) **Inapplicability to Certain Inventory.** During any period in which collateral subject to a statute specified in subsection (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

- 5) by deleting item 2 from Section 47-9-317(a) in its entirety and by substituting instead the following:

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

- (A) the security interest or agricultural lien is perfected; or
- (B) one of the conditions specified in Section 47-9-203(b)(3) is met and a financing statement covering the collateral is filed.

- 6) by adding at the end of Section 47-9-320(a) the following:

A buyer in ordinary course of business buying farm products from a person engaged in farming operations would take free of a security interest created by the buyer's seller as provided in Section 1324 of the federal Food Security Act of 1985, 7 U.S.C. §1631.

- 7) by deleting from Section 47-9-406(b)(3)(A) the words "or general intangible" and by substituting instead the words "or payment intangible".
- 8) by deleting from Section 47-9-509(a)(1) the words "authenticated record" and by substituting instead the words "authenticated record or pursuant to subsection (b) or (c)".

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- 9) by designating the existing language of Section 47-9-513(d) as item (1) and by adding as a new item (2) the following:

(2) Except as otherwise provided in Section 47-9-510, for purposes of Sections 47-9-519(g), 47-9-522(a), and 47-9-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

- 10) by deleting Section 47-9-520(a) in its entirety and by substituting instead the following:

(a) **Mandatory refusal to accept record.** A filing office described in Section 47-9-501(a)(2) shall refuse to accept a record for filing for a reason set forth in Section 47-9-516(b), and a filing office may refuse to accept a record for filing only for a reason set forth in Section 47-9-516(b).

- 11) by deleting from Section 47-9-523(c), the words "the filing office shall", and by substituting instead the words "a filing office described in Section 47-9-502(a)(2) shall, and a filing office described in Section 47-9-501(a)(1) may,".

- 12) by adding to Section 47-9-525(a) as a new item (3) the following:

(3) an amount as established by filing-office rule adopted and promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, if the record is communicated by another medium authorized by the filing office.

- 13) by deleting Section 47-9-525(c) in its entirety and by substituting instead the following:

(c) **Response to information request.** (1) The uniform fee for responding to a written request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is twelve dollars (\$12).

Upon request, the filing office shall furnish a copy of any filed financing statement for a uniform fee of one dollar (\$1.00) per page.

(2) The filing office may establish a uniform fee for responding to a request for information communicated by another medium authorized by the filing office, including issuing a certificate showing whether there is on file any financing statement naming a particular debtor and including a per page fee, by rule adopted and promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

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- 14) by deleting from items (1) and (3) of Section 47-9-608(a) the words “under this section” and by substituting instead the words “under Section 47-9-607”.
- 15) by deleting from Section 47-9-613(1)(E) the words “public sale or” and by substituting instead the words “public disposition or”.
- 16) by deleting from Section 47-9-615(a) the words “of disposition in” and by substituting instead the words “of disposition under Section 47-9-610”.
- 17) by deleting from Section 47-9-615(c) the words “under this section unless” and by substituting instead the words “under Section 47-9-610 unless”.
- 18) by deleting from Section 47-9-625(b) the words “with a request under Section 47-9-210”.
- 19) by deleting from Section 47-9-625(g) the words “shown in the statement” and by substituting instead the words “shown in the list or statement”.
- 20) by deleting from Section 47-9-702(b) the numbers “47-9-708” and by substituting instead “47-9-709”.
- 21) by renumbering Sections 47-9-707 and 708 as Sections 47-9-708 and 709 respectively, and by adding as a new Section 47-9-707, the following:

**SECTION 47-9-707. AMENDMENT OF PRE-EFFECTIVE-DATE  
FINANCING STATEMENT.**

(a) **Pre-effective-date financing statement.** In this section, “pre-effective-date financing statement” means a financing statement filed before this Act takes effect.

(b) **Applicable law.** After this Act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) **Method of amending: general rule.** Except as otherwise provided in subsection (d), if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this Act takes effect only if:

- (1) the pre-effective-date financing statement and an amendment are filed in the office specified in Section 47-9-501.

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(2) an amendment is filed in the office specified in Section 47-9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies Section 47-9-706(c); or

(3) an initial financing statement that provides the information as amended and satisfies Section 47-9-706(c) is filed in the office specified in Section 47-9-501.

(d) **Method of amending: continuation.** If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under Section 47-9-705(d) and (f) or 47-9-706.

(e) **Method of amending: additional termination rule.** Whether or not the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after this Act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies Section 47-9-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 as the office in which to file a financing statement.

AND FURTHER AMEND by deleting Section 22 in its entirety and by substituting instead the following:

Section 22. (a) Tennessee Code Annotated, Section 43-31-103(d) is amended by deleting “§§ 47-9-312(2) and 47-9-204” and by substituting instead §§47-9-324 and 47-9-204”.

(b) Tennessee Code Annotated, Section 43-31-105(a) is amended by deleting “§ 47-9-401” and by substituting instead “§ 47-9-501”.

(c) Tennessee Code Annotated, Section 43-31-105(c) is amended by deleting “§ 47-9-403” and by substituting instead “§ 47-9-525”.

(d) Tennessee Code Annotated, Section 43-31-105(d), is amended by deleting "47-9-312" and by inserting "47-9-322".

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(e) Tennessee Code Annotated, Section 43-31-106, is amended by deleting

"Chapter 9, Part 5" wherever it appears and by substituting instead "Chapter 9, Part 6".

AND FURTHER AMEND by adding the following new Sections 33-37 immediately after Section 32 and by renumbering existing Sections 33-35 accordingly:

SECTION 33. Tennessee Code Annotated, Section 8-21-1001, is amended by deleting subsection (a) in its entirety, substituting the following and re-designating accordingly:

(a) As used in this section:

(1) "Document" means the entire writing offered for registration in the office of the register, which may contain one or more instruments as defined herein.

(2) "Instrument" means a legal writing that gives formal expression to or evidence of a complete legal act or agreement requiring a separate index entry. For example, a document that contains a deed and a release of a deed of trust contains two instruments, and a document that contains three assignments contains three instruments.

(b) The registers of this state are entitled to demand and receive for their services in registering documents the following fees, and none other:

(1) For military discharge. . . . .No charge

(2) For each plat, map or survey . . . . . \$ 15

(3) For each document that may be registered, other than documents filed pursuant to the Uniform Commercial Code, and other than a

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military discharge, plat, map or survey, page size not to exceed 8

1/2" x 14" . . . . . \$ 10

(4) For each instrument in a document in excess of one (1) instrument . . . . . \$ 5

(5) For each page in a document in excess of two (2) pages, page size not to exceed 8 1/2" x 14" . . . . . \$ 5

(6) For a certified copy of a plat, map or survey . . . . . \$ 5

(7) For a certified copy of a document other than a plat, map or survey, page size not to exceed 8 1/2" x 14", per page . \$ 1

SECTION 34. Tennessee Code Annotated, Section 8-21-1001, subsections (b), (c) and (f) are amended by deleting the words "instrument" or "instruments" wherever they appear in said subsections and substituting the words "document" or "documents" as is appropriate.

SECTION 35. Tennessee Code Annotated, Section 8-37-604, is amended by deleting the words and figures "one half (1/2)" and substituting "fifty-two percent (52%)".

SECTION 36. Tennessee Code Annotated, Section 55-3-124, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) Any person holding a lien or encumbrance upon a vehicle, other than a lien dependent solely upon possession, may assign title or interest in and to such motor vehicle to a person other than the owner, without the consent and without affecting the interest of such owner, of the registration of such vehicle. In such event, the assignor may, but is not required to, give to the owner a written notice of such assignment, and deliver to the assignee an assignment of the lien, which assignment shall be signed by the assignor. If the original certificate of title is in the assignor's possession, the assignor may, but is not required to, deliver the certificate to the assignee, who may, but is not required to, forward the assignment, together with the certificate of title and proper fee for the notification of a lien to the division, which shall note the new lien on the certificate of title in the place and stead of the lien shown in favor of the assignor and return the same

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to the assignee. If the original certificate of title is not in the possession of the assignor, the assignee may, but is not required to, forward the assignment, together with the fee for noting a lien on the certificate of title, to the division, which shall procure the certificate of title from the person in whose possession it is being held, for the sole purpose of noting the new lien thereon in the place and stead of the lien in favor of the assignor, and the division shall then return the certificate of title to the other person from whom it was obtained and shall further notify the assignee of such lien that the lien has been noted on the certificate of title.

SECTION 37. Tennessee Code Annotated, Section 55-3-126, is amended  
by:

1) deleting from subsection (b) items (2) and (3)(A) and by substituting  
instead the following:

(2) The security interest is perfected as of the date of delivery to  
the county clerk or the division of motor vehicles.

(3)(A) Notwithstanding any other law to the contrary, a second or  
other junior security interest or lien in a vehicle of the type for which a  
certificate of title is required shall not be considered perfected unless and  
until such lien or security interest is physically noted on the certificate of  
title for such vehicle. In the case of a second or other junior lien or  
security interest, there shall be no constructive notice of such second or  
other junior lien or security interest unless such is physically noted on the  
certificate of title.

2) deleting from subsection (d) the words "public record elsewhere" and  
by substituting instead the words "public record elsewhere, except as expressly

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provided otherwise in Section 47-9-311(d)".

3) deleting subsection (f)(2) in its entirety and by substituting instead the following:

(2) The constructive notice shall be effective from the time of the filing of the instrument creating and evidencing the lien or encumbrance as authorized herein; provided, that the filing of a lien under the provisions of this act by the lienholder and the payment of the fee therefore shall in no way relieve any person of the obligation of paying the fee now required by law for filing a lien to be evidenced on a certificate of title of a motor vehicle.

AND FURTHER AMEND by deleting the effective date section [Section 40 as renumbered] in its entirety and by substituting instead the following:

Section 40. For purposes of promulgating rules under the Uniform Administrative Procedures Act, this Act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this Act shall take effect on July 1, 2001, the public welfare requiring it.